

**BEFORE THE INDIANA
COMMISSIONER OF INSURANCE**

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND NON-FINAL ORDER

Since October 31, 2013, the Commissioner has continued to monitor the rollout of the federal Healthcare.gov website and public reports of the experiences of people trying to enroll in health insurance coverage through the federal healthcare exchange (the “Marketplace”). The Commissioner now makes the following Findings of Fact and Conclusions of Law, and issues his Order as follows:

1. The Findings of Fact from the Non-Final Order are adopted and incorporated herein.
2. ICHIA has remained in operation after December 31, 2013, as required by the Non-Final Order.
3. ICHIA submitted a new plan of dissolution (the “Plan”) as required by the Non-Final Order.

4. ICHIA maintained its navigators after December 31, 2013, as required by the Non-Final Order.

5. Since October 31, 2013, the Marketplace has undergone considerable improvement. *See, e.g.*, “Healthcare.gov: Meeting the Mark,” published December 27, 2013 (available at <http://www.hhs.gov/digitalstrategy/blog/2013/12/healthcare-gov-meeting-the-mark.html>) (83,000 concurrent users on December 23, 2013; wait times generally less than five to ten minutes; 880,000 visits on December 24, 2013, with “no queuing”); *see also* ASPE Issue Brief, U.S. Dept. of Health and Human Svcs., published January 13, 2014 (available at http://aspe.hhs.gov/health/reports/2014/MarketPlaceEnrollment/Jan2014/ib_2014jan_enrollment.pdf) (seven-fold increase in Marketplace plan selections in December).

6. Fixes to the Marketplace were generally completed by December 1, 2013. *See* Healthcare.gov Progress and Performance Report, U.S. Dept. of Health and Human Svcs., published December 1, 2013 (available at <http://www.hhs.gov/digitalstrategy/sites/digitalstrategy/files/pdf/healthcare.gov-progress-report.pdf>); *see also* ASPE Issue Brief, U.S. Dept. of Health and Human Svcs., published January 13, 2014 (available at http://aspe.hhs.gov/health/reports/2014/MarketPlaceEnrollment/Jan2014/ib_2014jan_enrollment.pdf).

7. With a generally operational web site as of December 1, 2013, most of ICHIA’s insureds had slightly more than three (3) weeks to enroll in coverage.

8. More than 1.1 million people nationwide have enrolled in a qualified health plan through the Marketplace on or before December 24, 2013. *See* “Enrollment Surged Prior to the

Deadline for Coverage on January 1,” published December 29, 2013 (available at <http://www.hhs.gov/healthcare/facts/blog/2013/12/enrollment-surged.html>).

9. However, it has come to the Commissioner’s attention that not all ICHIA insureds can enroll in individual coverage, either through the Marketplace or outside of it.

10. A number of ICHIA insureds under the age of 65 have been enrolled in Medicare coverage and used ICHIA as secondary coverage.

11. The Commissioner recognizes that currently, there are no companies writing Medicare Supplement insurance in Indiana to individuals under the age of 65.

12. However, there are Medicare Advantage plans available to the majority of the ICHIA insureds who are enrolled in Medicare coverage and are under the age of 65, and the Department is engaged with the Centers for Medicare & Medicaid Services (“CMS”) to ensure that eligible individuals are enrolled in an appropriate plan.

13. An exception is ICHIA insureds who suffer from end-stage renal disease (“ESRD”).

14. Individuals with ESRD cannot enroll in a Medicare Advantage product. 42 USC § 1395w-21.

15. Additionally, there are hundreds of ICHIA insureds who have been diagnosed with HIV/AIDS and are enrolled in the Ryan White HIV/AIDS program (the “Ryan White Program”), which is run by the Indiana State Department of Health (“ISDH”) and funded in part through a grant from the Health Resources and Services Administration (“HRSA”), a division of the U.S. Department of Health and Human Services (“HHS”).

16. Transitioning individuals in the Ryan White Program (“Ryan White Members”) involves significant discussion and coordination among ICHIA, ISDH, the Department, insurers, HRSA, HHS, and others.

17. Because of Ryan White Program policies, Ryan White Members are not able to enroll in insurance coverage without the assistance and approval of the Ryan White Program.

18. Despite significant effort, the transition of ICHIA insureds who are Ryan White Members to individual insurance policies cannot be accomplished on or before February 1, 2014.

19. However, the Ryan White Program contains an option that would allow Ryan White Members to receive coverage for expenses other than inpatient hospital expenses (the “Inpatient Option”) so long as ISDH does not pay a premium for the Ryan White Members.

20. ISDH is prepared to transition Ryan White Members to the Inpatient Option.

21. The Inpatient Option is a lower cost option for all involved: the Ryan White Member, the ISDH, and ICHIA.

22. Ind. Code § 27-8-10-0.5(f) states the Commissioner shall approve the Plan if it meets all the elements in subsection (e), so long as the Plan is also suitable to ensure the fair, reasonable, and equitable dissolution of ICHIA.

23. Individuals with ESRD or HIV/AIDS have health care costs that often total thousands of dollars monthly.

24. Going without health insurance could be catastrophic for these individuals.

25. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

26. The Commissioner of Insurance has the authority to approve or disapprove of ICHIA's plan of dissolution under Ind. Code § 27-8-10-0.5.

27. It is now appropriate to consider the Marketplace as "operating" as envisioned by Ind. Code § 27-8-10-0.5(a)(1).

28. However, the Commissioner is required to evaluate whether the dissolution of ICHIA would be fair, reasonable, and equitable. Ind. Code §27-8-10-0.5(f).

29. To allow the dissolution of ICHIA with no coverage option available to ICHIA insureds with ESRD would be unfair, unreasonable, and inequitable.

30. To allow the dissolution of ICHIA when Ryan White Members cannot obtain coverage for inpatient hospital services would be unfair, unreasonable, and inequitable.

31. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

NON-FINAL ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Commissioner now states the following:


1. ICHIA's revised Plan of Dissolution is DISAPPROVED.
2. ICHIA shall remain in operation through April 30, 2014, to provide the following limited coverages:
 - (a) Continuing coverage to individuals with ESRD; and
 - (b) Inpatient-only coverage to Ryan White Members.
3. All other ICHIA coverage not listed above will cease after January 31, 2014.
4. ICHIA Ryan White Members will not be charged a premium for the inpatient-only coverage.

5. ICHIA shall, not later than February 7, 2014, submit a new Plan of Dissolution to the Commissioner which provides for the continuation of ICHIA's operations through at least April 30, 2014, as provided herein. This Plan of Dissolution will also provide a mechanism for affirming coverage for Ryan White Members without payment of a monthly premium.

6. ICHIA shall maintain its navigators for the benefit of ICHIA's insureds through April 30, 2014.

7. This Order shall be published on ICHIA's web site as soon as practicable following receipt by ICHIA and otherwise communicated, as appropriate, to ICHIA's insureds in a reasonable fashion.

ALL OF WHICH IS ORDERED by the Commissioner this 17th day of January 2014.


Stephen W. Robertson
Commissioner of Insurance

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